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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/038,230	03/11/1998	TSUGUO KOYANAGI	1217-980347	8053

7590

04/03/2002

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EXAMINER

METZMAIER, DANIEL S

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 04/03/2002

26

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/038,230

Applicant(s)

KOYANAGI ET AL.

Examiner

Daniel S. Metzmaier

Art Unit

1712

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 March 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: Form PTO-892


Daniel S. Metzmaier
Primary Examiner
Art Unit: 1712

Continuation of 5. does NOT place the application in condition for allowance because: the reasons of record.

Furthermore, applicants assert the prior art references do not teach or suggest a formulation which is stable in the presence of ions or the theoretical basis whereby such a stable formulation can be obtained. This has not been deemed persuasive for the reasons set forth in the rejections. Initially, applicants claim do not set forth any limitation commensurate with said stability arguments. Enomoto (column 7, lines 26-47) teaches modifying the dispersing medium and surface modifying the sol particles for the purpose of compatability. Compatability is defined in Webster's II, "Capable of forming a chemically . . . stable system". Compatability is synonymous with improving stability. Yoneda et al (abstract) is directed to forming suspensions having excellent dispersion stability. Applicants conclusion regarding accidental results of the prior art is not well founded. Applicants comparison between various surface treating agents has not been shown to provide unexpected results but the instant materials compared with no surface treating agent.

Applicants' remarks regarding the lack of the Yoneda et al reference teaching an organic sol is not well founded. Applicants claims do not restrict the claimed compositions to organic sols. Furthermore, Yoneda et al is directed to sol particles dispersed in a glycol dispersing medium (see claim 1 and 10). Enomoto et al also discloses (column 3, lines 10-14) glycols as dispersing media. A review of applicants' Table 1 will show ethylene glycol is a dispersing media reading on the instant claim and disclosed in both the references.

Engle et al, US 5,888,290, and Bunger et al, US 3,689,300, are cited of particularly relevance to the instant claim. See examples, particularly example 1 of each reference.